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8  
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
10 OF THE STATE OF CALIFORNIA

11  
12 In the Matter of: ) CFL FILE NO.: 60DBO-92377  
13 THE COMMISSIONER OF BUSINESS )  
OVERSIGHT, ) CONSENT ORDER  
14 )  
15 Complainant, )  
16 v. )  
17 EVEN FINANCIAL INC., )  
18 Respondent. )  
19 )  
20 )  
21 )

22 In consideration of the application filed by Even Financial Inc. for a broker license under the  
23 California Financing Law<sup>1</sup> (Fin. Code, § 22000, et seq.) (CFL), this Consent Order is entered into by  
24 and between the Commissioner of Business Oversight and Even Financial, Inc. (Consent Order).

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27 <sup>1</sup> Effective October 4, 2017, the name of the “California Finance Lenders Law” changed to the “California Financing  
28 Law.” (Assem. Bill No. 1284 (2017-2018 Reg. Sess.) § 4.) For purposes of this Consent Order, a reference to the  
California Financing Law means the California Finance Lenders Law before October 4, 2017 and the California  
Financing Law on and after that date. (Fin. Code, § 22000.)

**RECITALS**

This Consent Order is made with reference to the following facts:

A. Even Financial Inc. (Even) is a Delaware corporation organized in 2014 with its principal place of business at 43 West 24th Street, Floor 5, New York, New York 10010. Even has never been licensed under the CFL.

B. Phillip Rosen (Rosen) is the Chief Executive Officer of Even. Rosen is authorized to enter into this Consent Order on behalf of Even.

C. The Department of Business Oversight, through the Commissioner of Business Oversight (Commissioner), has jurisdiction over the licensing and regulation of persons and entities engaged in the business of lending and brokering pursuant to the CFL.

D. On or about February 1, 2019, Even voluntarily filed with the Commissioner an application for licensure as a broker under the CFL (CFL File No. 60DBO-92377) (Application). During the application process, Even provided to the Commissioner information describing services Even had rendered in connection with loans made under the CFL (Information). From the Commissioner’s review of the Application and the Information, the Commissioner made the following factual findings (Findings).

i. From 2015 through 2018, Even offered a referral service to participating lenders, including lenders that made loans under the CFL (Lender(s)).

ii. As part of this service, Even collected and transmitted confidential information about prospective borrowers to the Lenders.

iii. Some prospective borrowers provided their confidential information to Even in order to receive recommendations amongst various loan options available to the borrowers.

iv. If a prospective borrower ultimately obtained a loan from one of the Lenders following their referral by Even, Even was paid a referral fee by the Lender.

E. Based on the Findings, the Commissioner determined that Even engaged in the business of negotiation or performing any act as broker in connection with loans made by a finance lender in violation of section 22100 of the Financial Code.

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1 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions  
2 contained herein, the Commissioner and Even (the Parties) agree as follows:

3 **TERMS AND CONDITIONS**

4 1. **Purpose.** This Consent Order resolves the Findings in a manner that avoids the  
5 expense of a hearing and other possible court proceedings, protects consumers, is in the public  
6 interest, and is consistent with the purposes, policies, and provisions of the CFL.

7 2. **Desist and Refrain Order.** Pursuant to Financial Code section 22712, Even  
8 Financial Inc. is hereby ordered to desist and refrain from engaging in the business of negotiation or  
9 performing any act as broker in connection with loans made by a finance lender, in violation of  
10 Financial Code section 22100.

11 3. **Penalty.** Even shall pay a penalty of \$100,000.00 to the Commissioner (Penalty).  
12 The Penalty is due by the Effective Date, as defined in Paragraph 22 below (Effective Date), and  
13 should be made payable in the form of a cashier’s check or Automated Clearing House deposit to the  
14 “Department of Business Oversight” and transmitted to the attention of: Accounting – Enforcement  
15 Division, Department of Business of Oversight, 1515 K Street, Suite 200, Sacramento, California  
16 95814. Notice of such payment shall be forwarded to Adam Wright, Senior Counsel, Department of  
17 Business Oversight, Enforcement Division, 320 West 4th Street, Suite 750, Los Angeles, California  
18 90013.

19 4. **Consideration.** In consideration of Even’s agreement to the issuance of this Consent  
20 Order, Even’s payment of the Penalty, the Application, and the Information, the Commissioner  
21 hereby agrees to issue a CFL broker license to Even within five business days of the Effective Date.

22 5. **Waiver of Hearing Rights.** Even acknowledges the Commissioner is ready,  
23 willing, and able to proceed with the filing of an administrative enforcement action on the Findings.  
24 Even hereby waives the right to any hearings, and to any reconsideration, appeal, or other right to  
25 review which may be afforded pursuant to the CFL, the California Administrative Procedure Act, the  
26 California Code of Civil Procedure, or any other provision of law. Even further expressly waives any  
27 requirement for the filing of an Accusation or a Statement of Issues pursuant to Government Code  
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1 section 11415.60, subdivision (b). By waiving such rights, Even effectively consents to this Consent  
2 Order becoming final.

3 6. **Full and Final Settlement.** The Parties hereby acknowledge and agree that this  
4 Consent Order is intended to constitute a full, final, and complete resolution of the Findings, and that  
5 no further proceedings or actions will be brought by the Commissioner in connection with the  
6 Findings under the CFL or any other provision of law, excepting therefrom any proceeding to enforce  
7 compliance with the terms of this Consent Order.

8 7. **Failure to Comply with Consent Order.** Even agrees that, failure to comply with  
9 the terms of this Consent Order, the Commissioner may, in addition to all other available remedies it  
10 may invoke under the CFL, summarily suspend the CFL license of Even, if subsequently issued, until  
11 Even is in compliance. Even waives any notice and hearing rights to contest such summary  
12 suspension which may be afforded under the CFL, the California Administrative Procedure Act, the  
13 California Code of Civil Procedure, or any other provision of law in connection therewith.

14 8. **Information Willfully Withheld or Misrepresented.** This Consent Order may be  
15 revoked, and the Commissioner may pursue any and all remedies available under the law against  
16 Even if the Commissioner discovers that Even knowingly or willfully withheld information used for  
17 and relied upon in this Consent Order.

18 9. **Future Actions by Commissioner.** If Even fails to comply with any terms of the  
19 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise  
20 resolved under this Consent Order. The Commissioner reserves the right to bring any future actions  
21 against Even, or any of its partners, owners, officers, shareholders, directors, employees or  
22 successors for any and all unknown violations of the CFL.

23 10. **Assisting Other Agencies.** Nothing in this Consent Order limits the Commissioner's  
24 ability to assist any other government agency (city, county, state, or federal) with any administrative,  
25 civil or criminal prosecutions brought by that agency against Even or any other person based upon  
26 any of the activities alleged in this matter or otherwise.

27 11. **Headings.** The headings to the paragraphs of this Consent Order are for convenience  
28 only and will not be deemed a part hereof or affect the construction or interpretation of the provisions

1 hereof.

2 12. **Binding.** This Consent Order is binding on all heirs, assigns, and/or successors in  
3 interest.

4 13. **Reliance.** Each of the Parties represents, warrants, and agrees that in executing this  
5 Consent Order it has relied solely on the statements set forth herein and the advice of its own counsel.  
6 Each of the parties further represents, warrants, and agrees that in executing this Consent Order it has  
7 placed no reliance on any statement, representation, or promise of any other party, or any other  
8 person or entity not expressly set forth herein, or upon the failure of any party or any other person or  
9 entity to make any statement, representation or disclosure of anything whatsoever. The Parties have  
10 included this clause: (1) to preclude any claim that any party was in any way fraudulently induced to  
11 execute this Consent Order; and (2) to preclude the introduction of parol evidence to vary, interpret,  
12 supplement, or contradict the terms of this Consent Order.

13 14. **Waiver, Amendments, and Modifications.** No waiver, amendment, or modification  
14 of this Consent Order will be valid or binding unless it is in writing and signed by each of the Parties.  
15 The waiver of any provision of this Consent Order will not be deemed a waiver of any other  
16 provision. No waiver by either party of any breach of, or of compliance with, any condition or  
17 provision of this Consent Order by the other party will be considered a waiver of any other condition  
18 or provision or of the same condition or provision at another time.

19 15. **Full Integration.** This Consent Order is the final written expression and the complete  
20 and exclusive statement of all the agreements, conditions, promises, representations, and covenants  
21 between the parties with respect to the subject matter hereof, and supersedes all prior or  
22 contemporaneous agreements, negotiations, representations, understandings, and discussions between  
23 and among the parties, their respective representatives, and any other person or entity, with respect to  
24 the subject matter covered hereby.

25 16. **Governing Law.** This Consent Order will be governed by and construed in  
26 accordance with California law. Each of the parties hereto consents to the jurisdiction of such court,  
27 and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient  
28 forum to the maintenance of such action or proceeding in such court.

1           17.    **Counterparts.** This Consent Order may be executed in one or more separate  
2 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall  
3 together constitute a single document.

4           18.    **Effect Upon Future Proceedings.** If Even applies for any license, permit or  
5 qualification under the Commissioner’s current or future jurisdiction, or is the subject of any future  
6 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be  
7 admitted for the purpose of such application or proceeding.

8           19.    **Voluntary Agreement.** Even enters into this Consent Order voluntarily and without  
9 coercion and acknowledges that no promises, threats or assurances have been made by the  
10 Commissioner or any officer, or agent thereof, about this Consent Order. The Parties each represent  
11 and acknowledge that he, she or it is executing this Consent Order completely voluntarily and  
12 without any duress or undue influence of any kind from any source.

13           20.    **Signatures.** A fax or electronic mail signature shall be deemed the same as an  
14 original signature.

15           21.    **Public Record.** Even hereby acknowledges that this Consent Order is and will be a  
16 matter of public record.

17           22.    **Effective Date.** This Consent Order shall become final and effective when signed by  
18 all parties and delivered by the Commissioner’s counsel via e-mail to Even’s counsel, Michael  
19 Whalen, at MWhalen@goodwinlaw.com.

20           23.    **Authority to Sign.** Each signatory hereto covenants that he or she possesses all  
21 necessary capacity and authority to sign and enter into this Consent Order and undertake the  
22 obligations set forth herein.

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